

**REMARKS**

Claims 8 and 9 have been amended to resolve an objection raised by the Examiner. Claim 10 has been added based on the description at page 18, lines 19 to 22 in the present specification.

Entry of the above amendment is respectfully requested.

**Preliminary Matter**

Applicants submit herewith an Information Disclosure Statement with an PTO/SB/08 A & B (modified) form and references. The Examiner is respectfully requested to consider the disclosed information and return a signed and initialed version of the PTO/SB/08 A & B (modified) form to the undersigned with the next communication from the PTO.

**Claim Objections**

Claims 8 and 9 are objected to under 37 CFR 1.75(c) as being improper form because a multiple dependent claim cannot depend from any other multiple dependent claim.

In response, Applicants have amended claims 8 and 9 so that they do not depend on any other multiple dependent claim.

### **Double Patenting**

Claims 1-7 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-10 of copending Application No. 09/878,203.

In response, Applicants submit herewith a Terminal Disclaimer to obviate this rejection. Accordingly, withdrawal of this rejection is respectfully requested.

### **Anticipation Rejection**

Claim 1 is rejected under 35 U.S.C. 102(a) as being anticipated by Amine et al., “ $\beta$ -FeOOH, a new positive electrode material for lithium secondary batteries”, *Journal of Power Sources*, **81-82** (September 2000) 221-223.

In response, Applicants note initially that the Examiner asserts at page 3, line 13 of the Office Action dated September 10, 2003, that “The half-widths of the diffraction peaks shown appear to be greater than  $0.3^\circ$ ”.

While Fig. 1 of Amine et al. shows an x-ray diffraction pattern of “ $\beta$ -FeOOH” as indicated by the Examiner, Applicants submit that it is not an x-ray diffraction pattern of “ $\beta$ -FeOOH that contains at least one element selected from the group consisting of B, P, S, Li, Na, K, Mg, Al, Ca, Sc, Ti, V, Cr, Mn, Co, Ni, Cu, Zn, Zr, Pb and Sn” as described in the claim 1 of the present invention.

Therefore, Applicants submit that the disclosure of Amine et al. does not provide any basis for rejecting the present invention, regardless of whether the (001) peak shown in Fig. 1 of Amine et al. is larger than  $0.3^\circ$  or not.

Moreover, Applicants note that Li is inserted in  $\beta$ -FeOOH disclosed in Amine et al. However, Applicants submit that Amine et al. does not entirely disclose an X-ray diffraction pattern of  $\beta$ -FeOOHLix after insertion. Accordingly, a half width on the (001) peak is not clear. Therefore, Applicants submit that the disclosure of Amine et al. does not provide any basis for rejecting the present invention for this additional reason.

Thus, Applicants submit that the present invention is not anticipated by (or obvious over) Amine et al, and withdrawal of this rejection is respectfully requested.

## **Conclusion**

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

AMENDMENT UNDER 37 C.F.R. § 1.111  
U.S. Application No.: 10/009,534

Attorney Docket No.: Q67681

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,



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